US ERA ARCHIVE DOCUMENT



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Region 10

## 1200 Sixth Avenue, Seattle, Suite 155 Washington 98101 **EXPEDITED SETTLEMENT AGREEMENT**

Docket Number: CWA-10-2019-0110, NPDES No. IDR100171

Highlands Cove, LLC ("Respondent") is a "person" within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Worksheet Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified APPROVED BY EPA: in the Form.

EPA is authorized to enter into this Consent Agreement and E Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil N violation(s) alleged in this Agreement for a penalty of \$6,800. ( Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States n Government, that any deficiencies identified in the Form have § been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that it has submitted bank, cashiers, or certified checks, with case name and docket number noted, totaling the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 10 Fines and Penalties, Cincinnati Finance Center In the Matter of: Highlands Cove, LLC Docket No.: CWA-10-2019-0110 P.O. Box 979077 St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

	Date:
Edward J. Kowalski, Director	
Enforcement and Compliance	Assurance Divison
APPROVED BY RESPONDE	NT:
Name	
(print):	
Title	
(print):	
Signature:	Date:
notice pursuant to Section 30	sed since the issuance of publi 9(g)(4)(A) of the Act, 33 U.S.C has received no comment
Having determined that this AgIT IS SO ORDERED:	greement is authorized by law,
	Date:
Richard Mednick	
Regional Judicial Officer, Reg	ion 10

## Expedited Settlement Offer Worksheet Deficiencies Form for 2017 SW CGP

Consult instructions regarding eligibility criteria and procedures prior to use

version 10.3.4



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number
1	Highlands Cove, LLC	208-794-7621	IDR100171
	Clayton Conner, Responsible Party		
	3517 South Ashbury Way	Inspector Name:	Jared Richardson
	Boise, Idaho 83706	Inspector Agency:	Other
		Entrance Interview Cor	nducted: Yes
		Exit Interview Conducte	ed: Yes
	LOCATION AND ADDRESS OF SITE	Exit Interview given to:	Clayton Conner
2	Highlands Cove Subdivision #2	Exit Interview time:	11:30 Date: 04/17/2019
	North Sandpoint Way (approximately 4 miles Northeast of downtown Boise)		
	Boise, Idaho 83706		
	FACILITY DESCRIPTION / CONTACT NAMES		

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Clayton Conner
Name of Authorized Official (40 CFR 122.22):	Clayton Conner
Inspection Date:	
Start Construction Date:	06/11/2018
Estimated Completion Construction Date:	
If Unpermitted, Number of Months Unpermitted:	
Name of Receiving Water Body (Indicate whether 303(d) listed):	Crane Creek and Cottonwood Creek
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	11.75
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	No

			Citation		R	No. of		Dollar		
		PERMIT COVERAGE	Findings	Reference**	C A*	Deficien- cies		Amount	To	otal
3		Operator unpermitted for months (# months	l manigo	CWA 301		0.00	Х	\$500.00 =		tui
		unpermitted equals number of violations)		0			^	φοσσ.σσ		
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		SWPPP REVIEW								
4		SWPPP not prepared (If no SWPPP, leave elements		CGP 7.1				\$5,000.00 =	=	
		5 - 30 blank)								
5		SWPPP prepared but prepared after construction start		CGP 1.4.1			Х	\$75.00 =	=	
		(# of months = # of violations)								
6		SWPPP does not identify all potential sources of		CGP 7.2.3.g				\$250.00 =	=	
		pollution to include: porta-pottys, fuel tanks, staging								
		areas, waste containers, chemical storage areas,								
		concrete cure, paints, solvents, etc								
7		SWPPP does not identify all operators for the project		CGP 7.2.1				\$500.00 =	=	
		site and the areas of the site over which each operator								
8		has control	Site map does not include the following							
8	•	SWPPP does not have site description, as follows:	required elements: 1) sediment stockpiles	CGP 7.2.3.a				<b>#</b> 400.00		
		Nature of activity in description	(7.2.4.b.iii) and 2) all structural control	CGP 7.2.3.a CGP 7.2.3.f				\$100.00 =		_
		Intended sequence of major activities	measures (7.2.4.i).		-			\$100.00 =		_
	_	Total disturbed acreage		CGP 7.2.3.c				\$100.00 =		_
	_	General location map		CGP 7.2.4.a				\$100.00 =		_
		Site map		CGP 7.2.4	-			\$500.00 =		
	F	Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls,		CGP 7.2.4.b-j		2	Х	\$50.00 =	= 51	100
		structural practices shown, stabilization practices,								
		offsite materials, waste, borrow or equipment storage								
		ageas, surface waters, discharge points, areas of final								
		stabilization (count each omission under 8F as 1								
		violation)								
	G	Location/description industrial activities, like concrete		CGP 7.2.3.g				\$500.00 =	<u> </u>	
	Ŭ	or asphalt batch plants						ψοσο.σσ		
9		SWPPP does not:								
	Α	Describe all pollution control measures (e.g. BMPs)		CGP 7.2.6			П	\$750.00 =	=	$\neg$
		,						***********		
	В	Describe sequence for implementation		CGP 7.2.6.a.iv				\$250.00 =	=	
		Detail operator(s) responsible for implementation		CGP 7.2.1				\$250.00 =	=	$\neg$
10		SWPPP does not describe interim stabilization		CGP 7.2.6.b.vi				\$250.00 =		$\neg$
		practices								
11		SWPPP does not describe permanent stabilization		CGP 7.2.6.b.vi				\$250.00 =	=	$\neg$
		practices								
12		SWPPP does not describe a schedule to implement		CGP 7.2.6.b.vi				\$250.00 =	-	
		stabilization practices					L,			

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(e.g., MS4 requirements)									
SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans									
with changes applicable to protecting surface waters in State, Tribal or local erosion plans  27 Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates  28 SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)  29 Copy of SWPPP not retained on site  A SWPPP not signed/certified  20 SWPPP not signed/certified  20 Copy of SWPPP not made available upon request  Subtotal SWPPP Deficiencies  Subtotal SWPPP Deficiencies  \$10  INSPECTIONS  11 Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.25 inches or greater (not required if; temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).  No inspections conducted and documented (iff True, then leave elements 32-39 blank)  Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed biweekly:  If known, number of days of rainfall of >0.25°						4		Н	
in State, Tribal or local erosion plans  Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates  SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)  29	26			CGP 9.1.1.7			\$250.00	=	
27 Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates  28 SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)  29 Copy of SWPPP not retained on site  A SWPPP not signed/certified  20 SWPPP not signed/certified  21 SWPPP not signed/certified  22 SWPPP not signed/certified  30 SWPPP not signed/certified  31 Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.25 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).  No inspections conducted and documented (if True, then leave elements 32-39 blank)  Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed biweekly:  If known, number of days of rainfall of >0.25°									
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coverage terminates	27	Copies of inspection reports have not been retained		CGP 4.7.4			\$500.00	=	
SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)  29		as part of the SWPPP for 3 years from date permit							
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not made within 7 days of such inspection (count each omission under under 28 as 1 violation)  29								Ш	
omission under under 28 as 1 violation)  Copy of SWPPP not retained on site A SWPPP not made available upon request CGP 7.3 SWPPP not signed/certified CGP 7.2.10 Subtotal SWPPP Deficiencies  INSPECTIONS  Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.25 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).  No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed every 7 days: Number of Inspections expected if performed biweekly: If known, number of days of rainfall of >0.25"								Ш	
29 Copy of SWPPP not retained on site  A SWPPP not made available upon request  SWPPP not signed/certified  CGP 7.3  SUBSTANCE SWPPP not signed/certified  CGP 7.2.10  SUBSTANCE SWPPP Deficiencies  Subtotal SWPPP Deficiencies  \$10  INSPECTIONS  Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.25 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).  No inspections conducted and documented (if True, then leave elements 32-39 blank)  Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed bi-weekly:  If known, number of days of rainfall of >0.25"								IJ	
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SWPPP not signed/certified   \$500.00   =	29					4			
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24 hours after storm event greater than 0.25 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).  No inspections conducted and documented (if True, then leave elements 32-39 blank)  Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed biweekly:  If known, number of days of rainfall of >0.25"								Ш	
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7 days:  Number of Inspections expected if performed biweekly:  If known, number of days of rainfall of >0.25"		inen leave elements 32-39 blank)	4.4				raise	Н	
Number of Inspections expected if performed bi- weekly:  If known, number of days of rainfall of >0.25"			44						
weekly:  If known, number of days of rainfall of >0.25"		Number of Inspections expected if performed every	**						
If known, number of days of rainfall of >0.25"		Number of Inspections expected if performed every 7 days:						Щ	
		Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed bi-							
32 Inspections not conducted by qualified personnel CGP 4.1 \$50.00 =		Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed biweekly:							
, , , , , , , , , , , , , , , , , , ,		Number of Inspections expected if performed every 7 days:  Number of Inspections expected if performed biweekly:  If known, number of days of rainfall of >0.25"							

			T	1			-			1
33		All areas disturbed by construction activity or used for		CGP 4.5.1 & 3				\$50.00	=	
		storage of materials and which exposed to								
		precipitation not inspected								
34		All pollution control measures not inspected to ensure	P. 9 states, "Permittee's inspection	CGP 4.5.2		44		\$50.00	=	\$2,200
		proper operation	procedures & forms lacked a thorough and							
			clear description to ensure following required							
			areas inspected, per Part 4.5 of the CGP:							
			SW controls, drainage ways, perimeter &							
			drainage points."							
35		Discharge locations are not observed and inspected		CGP 4.5.5				\$50.00	=	
		3								
36		For discharge locations that are not accessible,		CGP 4.5.4 & 6			┪	\$50.00	-	
30				CGF 4.5.4 & 0				φ30.00	1-1	
	-	nearby locations are not inspected					_		₩	
37		Entrance/exit not inspected for off-site tracking		CGP 4.5.2				\$50.00		
38		Site inspection report does not include: date, name		CGP 4.7.1			Х	\$50.00	=	
		and qualifications of inspector, weather information,								
		location of sediment/pollutant discharge, BMP(s)								
		requiring maintenance, BMP(s) that have failed,								
		BMP(s) that are needed, corrective action required								
		including changes/updates to SWPPP and								
		schedule/dates (count each omission under 38 as 1								
		violation)								
39		Inspection reports not properly signed/certified (count		CGP 4.7.2			Х	\$50.00	=	
		each failure to to sign/certify as 1 violation)								
		, ,		9	ubtota	l Inspecti	one	Deficienci	es	\$2,200
							J.10			Ψ <u>2</u> ,200
		AVAILABILITY OF DECORDS								
		AVAILABILITY OF RECORDS		1			-			
40		Sign/notice not posted		CGP 1.5				\$250.00	=	
	Α	Does not post NPDES ID assigned to NOI		CGP 1.5a				\$50.00	=	
	В	Location of SWPPP or contact person for scheduling		CGP 1.5.b & c				\$50.00	=	
		viewing times where on-site location for SWPPP						,		
		unavailable not noted on sign								
		unavaliable not noted on sign			0	- 4 - 1 D		D.C.		00
					Subt	otai Reco	ras	Deficienci	es	\$0
			-							
		BEST MANAGEMENT PRACTICES								
41		No velocity dissipation devices located at discharge		CGP 2.2.11				\$500.00	=	
		locations or outfall channels to ensure non-erosive						1		
		flow to receiving water								
42			BMPs not selected, installed and maintained: 1)				-		ш	
42		Control measures are not properly:	hydroseeding and embankment stabilzation							
	Α	Selected, installed and maintained	associated with the stabilization basin in the north-	CGP 2.1		4		\$500.00	_	\$2,000
	В	Maintenance not performed by next business day or	central portion of the Site (photographs 9-12), 2)	CGP 2.1.4				\$250.00	=	
		within 7 business days if problem requires new or	incorrectly installed silt fence (photographs 13 &							
		replacement control repair	14), 3) storm drain inlet grate from adjacent Lot 3							
		(count each failure to select, install, maintain each	lacks BMPs (photographs 17 & 18), and 4)				1			
			concrete washout allowed to overtop and is							
		BMP as one violation	currently at capacity photographs 21-22).							
43		When sediment escapes the site, it is not removed at	The following sediment escaped the site and	CGP 2.2.4.d		1		\$500.00	=	\$500
		a frequency necessary to minimize off-site impacts	was not removed at a frequency necessary							
			to minimize off-site impacts: 1) sediment to							
			Crane Creek Golf Course (photograph 4).							
44		Litter, construction debris, and construction chemicals		CGP 2.3			T	\$500.00	=	
		exposed to storm water are not prevented from					ı		П	
		becoming a pollutant source (e.g. screening					ı	1	П	
		outfalls, pickup daily, etc.)							1	
-,-			I A A Aire and A has in a second at the seco	0000000			-	A=0===	+	40.55
45		Stabilization measures are not initiated as soon as	At time of the inspection, major construction	CGP 2.2.14		4		\$500.00	=	\$2,000
		practible on portions of the site where construction	activities had been inactive since December 2018/January 2019, a period longer than 14				ı	1	П	
		activities have temporarily or permanently ceased							1	
		within 14 days after such cessation	days. The inspection team observed that portions of the project lacked adequate	<u> </u>			L	<u> </u>	Шl	
		*Exceptions:	temporary or permanent stabilization							
		(a) Snow or frozen ground conditions					Г			
		(b) Activities will be resumed within 14 days					Г			
		(c) Arid or Semi-arid areas (<20 inches per year)							H	
		(0) And or Semi-and areas (<20 inches per year)								
				000						
46		Common Drainagehas no sedimentation basin for the		CGP 2.2.12				\$1,000.00	=	
		2 year, 24 hour storm, or 3600 cubic ft. storage per							1	
		acre drained						1	П	
	Α	Where sedimentation basin not attainable, smaller		CGP 2.1.3.2				\$1,000.00	=	
		sediment basins, sediment traps, or erosion controls					ı	,,,,,,,,,	П	
		not implemented for downslope boundaries						1	П	
		not implemented for downstope boundaries							1	
							4		$\vdash$	
	В	Sediment not removed from sediment basin or traps		CGP 2.2.12.f			ı	\$500.00	=	
		when design capacity reduced by 50% or more							1	
		•							1	
47		Common Drainage has no sediment traps, silt fences,		CGP 2.2.3			1	\$500.00	=	
71		vegetative buffer strips, or equivalent sediment		20. 2.2.0			ı	\$500.00	П	
									1	
		controls for all down slope boundaries (not required if							1	
		sedimentation sediment basin meeting criteria in 46							1	
		above)					П	Ī	1 1	

	design capacity reduced by 50% or more		
		Subtotal BMP Deficiencies	\$4,50
	SMALL BUSINESS EVALUATION		
8	Is the Owner/Operator a Small Business?		
	A small business is defined by EPA's Small		
	Business Compliance Policy as: "a person,		
	corporation, partnership, or other entity that		
	employs 100 or fewer indiviudals (across all		
	facilities and operations owned by the small		
	business)." The number of employees should be		
	considered as full-time equivalents on an annual		
	basis, including contract employees (see 40 CFR		
	372.3). A full time employee unit is 2000 hours		
	worked per year.		
		Total Expedited Settlement:	\$6,80
	* Requires Corrective Action		-